

ORDINANCE NO. 18099-05-2008

AN ORDINANCE AMENDING ARTICLE I OF CHAPTER 6 "ANIMALS AND FOWL" SECTION 6-1 "DEFINITIONS" OF THE CITY CODE TO AMEND DEFINITION OF "ANIMAL ESTABLISHMENT" AND AMENDING CHAPTER 6, ARTICLE IX TO ADD SECTION 6-79 "PROHIBITED SALES"; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Department of Public Health is charged with promoting and protecting the public health of the community; and

WHEREAS, diseases transmitted from animals to humans (zoonotic diseases) including rabies virus, salmonellosis, roundworms, cat scratch fever, strep throat, ringworm, and scabies, pose a threat to the public health of the community; and

WHEREAS, the purposes of Chapter 6 of the City Code governing "ANIMALS AND FOWL" include encouraging responsible pet ownership and protecting the public health, safety, and welfare of the city; and

WHEREAS, sale of untraceable and possibly ill animals poses a threat to public health and to animal health in the form of possible epidemics of animal-borne illness; and

WHEREAS, the responsibilities of the Police Department include enforcing all municipal ordinances with which it is charged; and

WHEREAS, the responsibilities of the Code Compliance Department include enforcement of the City's health ordinances; and

WHEREAS, it is advisable to amend Chapter 6, Article IX of the City Code to prohibit unregistered and untraceable sales of animals and to authorize officers in the City's Public Health, Code Compliance, and Police Departments to enforce this prohibition.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS, AS FOLLOWS:

SECTION 1.

That Article I, Section 6-1 "Definitions." of Chapter 6 of The Code of the City of Fort Worth, Texas, is hereby amended to read as follows:

Animal establishment: Any pet shop, kennel, grooming shop, auction, performing animal exhibition, or other facility engaged in the handling of domestic animals, excluding veterinary clinics, hospitals, animal shelters and individuals caring for animals in their private residence in compliance with the terms of this chapter.

That Article IX of Chapter 6 of The Code of the City of Fort Worth, Texas, is hereby amended by adding the following provision:

Sec. 6-79. Prohibited sales.

(a) It shall be unlawful for any person to sell, exchange, trade, barter, lease, rent, give away, or display for a commercial purpose any live animal on any roadside, public right-of-way, parkway, median, park, playground, swimming pool, other recreation area, flea market, or commercial or retail parking lot that is generally accessible by the public, regardless of whether such access is authorized.

(b) A person commits an offense if the person fails to comply with this section.

(c) It is an affirmative defense to prosecution under subsection (a) that the person is a: veterinary clinic; animal hospital; animal shelter; animal welfare, rescue, and/or adoption agency that is a registered non-profit entity in compliance with section 501(c)(3) of the Internal Revenue Code; bona fide zoological park; circus; educational institution; museum; licensed laboratory; publicly owned nature center; bona fide member of an educational or scientific association or society approved by the director of health; persons holding permits from an agency of the state or the United States for the care and keeping of animals for rehabilitative purposes; animal establishment in compliance with the terms of this chapter; or individual caring for animals in his private residence in compliance with the terms of this chapter.

(d) Officers in the city's public health, code compliance, and police departments are authorized to investigate alleged violations of this section and to issue citations for such violations.

SECTION 2.

This ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Fort Worth, Texas (1986), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 3.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and, if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 4.

Any person, firm, or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation exists shall constitute a separate offense.

SECTION 5.

All rights and remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of the provisions of the ordinances amended herein, which have accrued at the time of the effective date of this ordinance and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 6.

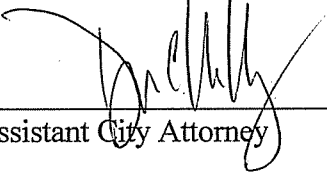
The City Secretary of the City of Fort Worth, Texas, is hereby directed to publish the caption, penalty clause and effective date of this ordinance for two (2) days in the official

newspaper of the City of Fort Worth, Texas, as authorized by Section 52.013, Texas Local Government Code.

SECTION 7.

This ordinance shall take effect upon adoption and publication as required by law.

APPROVED AS TO FORM AND LEGALITY:



Assistant City Attorney

ADOPTED: May 20, 2008

EFFECTIVE: May 24, 2008

City of Fort Worth, Texas
Mayor and Council Communication

COUNCIL ACTION: Approved on 5/20/2008 - Ord. No. 18099-05-2008

DATE: Tuesday, May 20, 2008
LOG NAME: 50ANIMALSALES

REFERENCE NO.: G-16149

SUBJECT:

Adopt Ordinance Amending City Code, Chapter 6, Animals and Fowl, Article I, Section 6-1, and Article IX, to add Section 6-79 Prohibiting the Roadside Sale of Animals

RECOMMENDATION:

It is recommended that the City Council adopt the attached ordinance amending the City Code, Chapter 6, Animals and Fowl, Article I, Section 6-1, and Article IX, to add Section 6-79 prohibiting the roadside sale of animals.

DISCUSSION:

The sale of animals by unregulated itinerant vendors operating at roadsides or at other temporary outdoor venues poses public health risks and nuisance issues. This practice has resulted in diseased animals being purchased with no mechanism for tracing the origin of the animal or notifying persons potentially exposed to the diseased animal. Additionally, many complaints are received annually from customers who purchased an animal sold as a specific breed or pedigree only to learn that the information provided was not factual and with no way to contact the seller of the animal. Lastly, traffic and other roadway hazards result from roadside vendors.

For all of these reasons, the proposed ordinance revision makes it "unlawful for any person to sell, exchange, trade, barter, lease, rent, give away, or display for a commercial purpose any live animal on any roadside, public right-of-way, parkway, median, park, playground, swimming pool, other recreation area, flea market, or commercial or retail parking lot that is generally accessible by the public, regardless of whether such access is authorized." Exceptions are provided for animal rescue organizations, licensed animal establishments (pet stores), and other scientific, educational and entertainment entities that display but do not sell or give away animals. The ordinance revision also provides specific authority for Animal Control, Code Compliance, and Police Officers to investigate alleged violations and issue citations.

Staff and the Animal Shelter Advisory Committee recommend the approval of this ordinance revision.

FISCAL INFORMATION/CERTIFICATION:

The Finance Director certifies that this action will have no material effect on City funds.

TO Fund/Account/Centers

FROM Fund/Account/Centers

Submitted for City Manager's Office by:

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